

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Oct 02, 2020

SEAN F. MCAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JAMES JOHNSON and BRADLEY
HERMAN, individually and as
Independent Co-Administrators of the
Estate of Sandra Johnson, deceased,

Plaintiff,

v.

TAMARACK AEROSPACE
GROUP, INC., and CRANFIELD
AEROSPACE SOLUTIONS
LIMITED,

Defendants.

NO: 2:20-CV-62-RMP

ORDER GRANTING DEFENDANT
CRANFIELD AEROSPACE
SOLUTIONS LIMITED'S MOTION
TO DISMISS AMENDED
COMPLAINT FOR LACK OF
PERSONAL JURISDICTION

BEFORE THE COURT is Defendant Cranfield Aerospace Solutions
Limited's Motion to Dismiss, ECF No. 20, for lack of personal jurisdiction, under
Fed. R. Civ. P. 12(b)(2), and failure to state a claim for relief, under Fed. R. Civ. P.
12(b)(6). The Court has reviewed the briefing submitted by the parties, the
remaining docket, the relevant law, and is fully informed.

ORDER GRANTING DEFENDANT CRANFIELD AEROSPACE SOLUTIONS
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1 The Court first must resolve Cranfield’s challenge to personal jurisdiction
2 under Rule 12(b)(2) before reaching any Rule 12(b)(6) arguments to dismiss.
3 *Sinochem Int’l Co. v. Malay. Int’l Shipping Corp.*, 549 U.S. 422, 431 (2007).
4 “‘Without jurisdiction the court cannot proceed at all in any cause’; it may not
5 assume jurisdiction for the purpose of deciding the merits of the case.” *Id.* (quoting
6 *Steel Co. v. Citizens for Better Environment*, 523 U.S. 83 (1998)).

7 Plaintiffs James Johnson and Bradley Herman does not contest that this Court
8 lacks personal jurisdiction over Defendant Cranfield and requests dismissal without
9 prejudice. ECF No. 27 at 2. Cranfield does not object to dismissal without
10 prejudice, but requests that the Court award Cranfield its attorney fees and costs
11 under the Washington State long-arm statute, Revised Code of Washington
12 (“RCW”) § 4.28.185(5). ECF No. 31 at 3.

13 The Washington long-arm statute gives the Court discretion to award
14 reasonable fees:

15 In the event the defendant is personally served outside the state on
16 causes of action enumerated in this section, and prevails in the action,
17 there may be taxed and allowed to the defendant as part of the costs of
defending the action a reasonable amount to be fixed by the court as
attorneys’ fees.

18 RCW § 4.28.185(5). Courts should evaluate a request for fees under RCW §
19 4.28.185(5) and should balance the statute’s twin aims: “(1) compensating an out-of-
20 state defendant for its reasonable efforts to contest jurisdiction and avoid
21 harassment; and (2) encouraging the full exercise of state jurisdiction.”

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1 *DiscoverOrg Data LLC v. NDivision Servs.*, No. C19-5508RBL, 2019 U.S. Dist.
2 LEXIS 221157, at *2 (W.D. Wash. Dec. 26, 2019) (citing *Scott Fetzer Co. v. Weeks*,
3 122 Wash.2d 141, 149 (1993) (*Fetzer II*); *Scott Fetzer Co., Kirby Co. Div. v. Weeks*,
4 114 Wash.2d 109, 122 n.6 (1990) (*Fetzer I*)). The Court has especially broad
5 discretion to deny a motion for attorney’s fees “‘when the circumstances of a case
6 fall outside the heartland of RCW 4.28.185(5)[’s] purpose’ of deterring frivolous,
7 unfair, or unjust litigation in Washington.” *DiscoverOrg Data*, 2019 U.S. Dist.
8 LEXIS 221157, at *2 (quoting *Johnson v. Venzon*, Case No. C12-895RSL, 2012
9 U.S. Dist. LEXIS 123934, at *16–17 (W.D. Wash. Aug. 30, 2012)). “These
10 principles ‘serve to ensure that otherwise valid claims are not abandoned merely out
11 of fear of the possibility of fee shifting.’” *DiscoverOrg Data*, 2019 U.S. Dist.
12 LEXIS 221157, at *2 (quoting *Johnson*, 2012 U.S. Dist. LEXIS 123934, at *16–17).

13 Plaintiffs Johnson and Herman allege in the Amended Complaint that
14 Cranfield is subject to personal jurisdiction in this Court because Cranfield
15 transacted business in the State of Washington and the business related specifically
16 to the design, production, and/or sale of the Tamarack Aerospace “Winglets” load
17 alleviation system at issue in this action. ECF No. 19 at 3. Cranfield supported its
18 Motion to Dismiss with a declaration from Cranfield’s Head of Design denying the
19 alleged contacts by Cranfield with the State of Washington. ECF No. 21. Johnson
20 and Herman conceded the lack of personal jurisdiction based on the additional
21 information provided through Cranfield’s Motion to Dismiss. ECF No. 27 at 2.

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1 Cranfield posits that RCW § 4.28.185(5) applies because Johnson and Herman
2 served Cranfield at its home office in England, and Johnson and Herman are
3 voluntarily dismissing Cranfield from the case for want of personal jurisdiction.
4 ECF No. 31 at 2–3. However, Johnson and Herman’s initial allegations and the
5 subsequent developments set forth above do not support that Plaintiffs’ basis for
6 asserting jurisdiction was frivolous. Cranfield does not make any argument toward
7 that end. Nor do the circumstances of Cranfield’s Motion to Dismiss compel a
8 conclusion that traditional notions of fair play and substantial justice favor an award
9 of fees. *See Johnson*, 2012 U.S. Dist. LEXIS 123934, at *16–17. Therefore, the
10 Court declines to exercise its discretion to award fees and costs in these
11 circumstances, which the Court finds to be outside of the “heartland” of the purposes
12 supported by RCW § 4.28.185(5). *DiscoverOrg Data*, 2019 U.S. Dist. LEXIS
13 221157, at *2.

14 Accordingly, the Court grants dismissal of the Amended Complaint as against
15 Cranfield and denies an award of fees under RCW § 4.28.185(5).

16 **IT IS HEREBY ORDERED** that:

17 1. Defendant Cranfield’s Motion to Dismiss, **ECF No. 20**, is **GRANTED**,
18 with respect to dismissal pursuant to Fed. R. Civ. P. 12(b)(2). The remainder of the
19 Motion, with respect to dismissal pursuant to Fed. R. Civ. P. 12(b)(6), is **DENIED**
20 **AS MOOT**.

21
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IT IS SO ORDERED. The District Court Clerk is directed to enter this Order and provide copies to counsel.

s/ Rosanna Malouf Peterson
 ROSANNA MALOUF PETERSON
 United States District Judge